

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: IES UTILITIES INC.	DOCKET NO. E-21324
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ORDER GRANTING MOTION

(Issued September 15, 1999)

On March 18, 1999, the administrative law judge issued a proposed decision and order in this docket. On April 1, 1999, IES Utilities Inc. (IES) filed with the Utilities Board (Board) a notice of appeal of the proposed decision and order. On August 26, 1999, IES filed a motion to hold this proceeding in abeyance for a period of 45 days from the date the motion was filed with the Board. In support of its motion, IES stated it is in the process of reviewing alternatives which would eliminate some of the issues presented in its appeal. IES requested the Board hold its appeal in abeyance in order to allow IES time to consider the alternatives.

On September 1, 1999, the Lee County Conservation Board filed a statement that it has no objection to IES's motion. On September 7, 1999, Sharon A. Johnson, Gary A. Johnson, and Kristin E. Nelson Whitaker filed responses to IES's motion stating all parties should be included in negotiations regarding the appeal.

The Board has reviewed IES's motion and will grant it. IES should inform the Board and the other parties of its progress within 45 days from the date the motion was filed. One of the parties who opposes IES's motion contends the Board's

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procedure does not allow a motion for abeyance of a proceeding. However, pursuant to IOWA CODE § 17A.15 (1999), on appeal from a proposed decision, the agency has all the power which it would have in initially making the final decision. Therefore, the Board has the power to grant IES's motion to hold the appeal in abeyance.

The other parties who oppose IES's motion state IES must include all parties in negotiations regarding its appeal. However, IES is not required to consult with other parties when making a decision regarding its appeal. In the event IES decides to file with the Board a proposed settlement of all or part of the issues in its appeal, the Board's rules contemplate a settlement may be contested. See, IOWA ADMIN. CODE 199-7.2(11) (1999).

IT IS THEREFORE ORDERED:

The motion to hold proceeding in abeyance for 45 days filed by IES Utilities Inc. on August 26, 1999, is granted.

UTILITIES BOARD

/s/ Allan T. Thoms

ATTEST:

/s/ Raymond K. Vawter, Jr. /s/ Diane Munns
Executive Secretary

Dated at Des Moines, Iowa, this 15th day of September, 1999.